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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/853,014 | 05/10/2001 | Peter Schafer | A34196 PCT USA-A | 5113 |

7590 10/31/2005

Andreas Grubert
Baker Botts
One Shell Plaza
910 Louisiana St
Houston, TX 77002-4995

EXAMINER

BURCH, MELODY M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3683

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-----------------|----------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/853,014 | SCHAFFER ET AL | |
| | Examiner | Art Unit | |
| | Melody M. Burch | 3683 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 3-11, 15 and 17-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1, 2, 12-14 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-42 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 1-2 are objected to because of the following informalities: in line 9 of claim 1 the phrase "the characteristic" should be changed to --the original characteristic-- since that is the characteristic that is changed when there is an indication of a risk of swerving or skidding. Claim 2 is objected to due to its dependency from claim 1. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2, 12-14, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5669673 to Reuter.

Reuter discloses in col. 9 lines 23-27 and in col. 9 lines 50-54 a method for controlling a brake system of a vehicle wherein braking effect on the vehicle wheels is a function of brake pedal force exerted by an operator as disclosed in col. 9 lines 50-51, said braking effect being enhanced by an adjustable braking force booster as disclosed in col. 9 lines 25-26 from an original characteristic to an enhanced characteristic, said method comprising: detecting dynamics of vehicle movement by determining at least one of a yaw rate or a transverse acceleration to detect a risk of swerving or skidding of

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the vehicle as disclosed in col. 9 line 23; changing the characteristic of said braking force booster when said analysis indicates a risk of swerving or skidding such that if a brake pedal force is exerted by the operator it will result in an increased braking force as disclosed in col. 9 lines 51-53, and changing the characteristics of said braking force booster back to said original characteristic if said analysis indicates that said risk of swerving or skidding no longer exists as implied by col. 9 lines 24-26 in which it is described that the corrective action is implemented when a variance occurs.

Response to Arguments

4. Applicant's arguments filed 8/2/05 have been fully considered but they are not persuasive.

Applicant argues that the system of Reuter does not provide for a braking force to all wheels thereby enhancing the braking effect as defined in the independent claims. Examiner notes that the argument is more specific than the claim language as such limitation is not found in either of the independent claims.

Applicant also argues that the present invention only applies the enhanced braking function if the operator activates the braking pedal. Examiner notes that Reuter includes an operation in which the enhanced braking function is implemented if the operator is activating the braking pedal. Such implementation results in line pressures being increased "greater than those applied by the driver" as recited in col. 9 lines 51-53. Therefore, under such operation of Reuter, the system applies the enhanced braking function if the operator activates the braking pedal. The claim language uses the open-ended term "comprising" when describing the method of the instant invention

and, therefore, does not preclude other conditions under which the enhanced braking function may be applied in addition to enhanced braking function application under the condition in which the operator activates the brake pedal.

Accordingly, the rejections have been maintained.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 571-272-7114. The examiner can normally be reached on Monday-Friday (6:30 AM-3:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James McClellan can be reached on 571-272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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October 20, 2005

Melody M. Burce
10/20/05

Melanie Torres
Melanie Torres
Primary Examiner
10-27-05